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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,054	11/21/2001	Dean R. Dodge	1316N-001660	1466

27572 7590 07/01/2002

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EXAMINER

BURCH, MELODY M

ART UNIT

PAPER NUMBER

3683

DATE MAILED: 07/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/990,054

Applicant(s)

DODGE ET AL.

Examiner

Melody M. Burch

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 November 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: element 94 disclosed on pg. 12 line 1. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitations regarding the piston valve assembly as claimed in lines 6-16 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect can be deferred until the application is allowed by the examiner.

### ***Specification***

4. The disclosure is objected to because of the following informalities:
  - On pg. 11 line 5 of paragraph [0026] the phrase "chord 116" should be changed to --chord 114--. The phrase "chord 116" should be changed throughout the specification.

Appropriate correction is required.

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification lacks proper antecedent basis for the term "pressure valve" claimed in line 2 of claims 3 and 5, "low speed valve" first claimed in line 12 of claim 4, and "mid/high speed valve" first claimed in line 3 from the bottom of claim 4. Examiner has interpreted the pressure valve as being "valve disc 80".

6. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification include the following:

- On pg. 5 line 4 the specification discloses that the clipped disc which Examiner has interpreted to be element number 92 allows an outer circumferential portion of the main valve disc which Examiner has interpreted to be element number 90 to be in contact with the piston which is labeled element 32 in the figure 2. Since the main valve disc is in the base valve 40 at the bottom of the damper, it is unclear how the clipped disc allows the main valve disc to be in contact with the piston from which it is separated by the valve body 6 and the lower chamber portion;

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- On pg. 5 line 5 the specification discloses an "entire stack of valve discs". It is unclear from the drawings what Applicant means by "entire stack of valve discs";
- On pg. 5 lines 6-7 the specification discloses that the "clipped disc has a crescent shaped portion which is removed to control the deflection of the main valve disc". Examiner notes from the drawings that the part that is removed is in the shape of a hemisphere;
- On pg. 12 lines 1-2 the specification discloses that it is the deflection of disc 94 that allows for full flow of fluid through compression valve assembly 64, however, Examiner notes that disc 94 does not exist in the drawings; therefore, it is unclear as to when full flow occurs through the assembly.

### ***Claim Objections***

7. Claim 4 is objected to because of the following informalities: the phrase "an upper working" in line 4 should be changed to --an upper working chamber--.

Appropriate correction is required.

8. Claim 5 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 5 depends from a non-existent claim 8.

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***Claim Rejections - 35 USC § 112***

9. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

10. Claims 4 and 6 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not provide support for the limitation of the "low speed valve including a first valve disc...and a second valve disc" first claimed in lines 13-14 of claim 4, for the limitation of the "mid/high speed valve comprising said first and second valve disc" as first claimed in the last two lines of claim 4, or for the limitations regarding the piston valve assembly as claimed in lines 6-16 of claim 6.

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites the limitations "said reserve" in lines 5-6 and "said first and second valve disc" in the last two lines from the bottom of the claim. There is insufficient antecedent basis for the limitations in the claim.

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5042624 to Furuya et al. in view of US Patent 5529154 to Tanaka and US Patent 4964493 to Yamaura et al.

Re: claim 1. Furuya et al. show in figures 1 and 3 a damper comprising: a pressure tube 1 forming a working chamber 1a,1b; a reservoir tube 6 disposed around the pressure tube, the reservoir tube forming a reservoir chamber 7 between the pressure tube and the reservoir tube, a base valve assembly 4 disposed between the working chamber and the reservoir chamber for regulating flow of damping fluid in a first direction between the working chamber and the reservoir chamber, the base valve assembly comprising: a valve body 4f defining a fluid passage 402,403; a first valve disc 4e disposed adjacent the valve body for closing the fluid passage, the first valve disc having an outside edge and a central axis; a second valve disc 4d disposed adjacent said first valve disc, the second valve disc having an outer edge supporting the first valve disc at a position between the outside edge and the central axis of the first valve

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disc, but does not specifically disclose that the outer edge of the second valve disc is chordal.

Tanaka teaches in figures 3a and 4a the use of a damper having a second valve disc 19 which is disposed adjacent to a first valve disc 17, the second valve disc having an outer edge 19a supporting the first valve disc at a position between the outside edge and a central axis of the first valve disc. Tanaka further teaches col. 5 lines 46-51 the damping force may be varied depending on the shape of valve disc 19 and the shape, angle, and depth of the outer edge 19a.

Yamaura et al. teach in figure 2 the use of a damper having a second valve disc 144 which is disposed adjacent to a first valve disc 138 via element 142, the second valve disc having an outer edge shown in the area of element number 158 supporting the first valve disc at a position between the outside edge and a central axis of the first valve disc (during large deflections of element 138). Yamaura et al. particularly teach in figure 4 the use of the outer edge of the second valve disc being a chordal edge as shown in the area of element number 162.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the outer edge of the second valve disc of Furuya et al. to have included a chordal outer edge, in view of the teachings of Tanaka and Yamaura et al., in order to provide a pivot edge for the first valve disc to achieve a desired damping force as best determined by routine experimentation.

Re: claim 2. Furuya et al. show in figure 1 a piston 5 dividing the working



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chamber into an upper portion 1a and a lower portion 1b the base valve assembly being disposed between the lower portion of the working chamber and the reservoir chamber.

Re: claims 3 and 5. Furuya et al. show in figure 1 the base valve comprising a pressure valve 4h,4g regulating the damping fluid in a second direction.

Re: claim 4. Furuya et al. show in figures 1 and 3 a damper comprising: a pressure tube 1 forming a working chamber 1a,1b; a piston 5 disposed within the working chamber, the piston dividing the working chamber into an upper working 1a and a lower working chamber 1b; a reservoir tube 6 disposed around the pressure tube, the reservoir tube forming a reservoir chamber 7 between the pressure tube and the reservoir tube; a base valve 4 assembly disposed between the lower working chamber and the reservoir chamber for regulating flow of damping fluid in a first direction between the lower working chamber and the reservoir chamber, the base valve assembly comprising: a low speed valve movable between a closed position and an open position, the low speed valve including a first valve disc 4e having an outside edge and a central axis and a second valve disc 4d supporting the first valve disc along an edge at a position between the outside edge and the central axis of the first valve disc; and a mid/high speed valve movable between a closed position and an open position, the mid/high speed valve comprising the first and second valve disc as disclosed in the first 9 lines of the abstract and in col. 6 lines 11-42 , but does not specifically disclose that the outer edge of the second valve disc is chordal.

Tanaka teaches in figures 3a and 4a the use of a damper having a second valve disc 19 which is disposed adjacent to a first valve disc 17, the second valve disc having

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an outer edge 19a supporting the first valve disc at a position between the outside edge and a central axis of the first valve disc. Tanaka further teaches col. 5 lines 46-51 the damping force may be varied depending on the shape of valve disc 19 and the shape, angle, and depth of the outer edge 19a.

Yamaura et al. teach in figure 2 the use of a damper having a second valve disc 144 which is disposed adjacent to a first valve disc 138 via element 142, the second valve disc having an outer edge shown in the area of element number 158 supporting the first valve disc at a position between the outside edge and a central axis of the first valve disc (during large deflections of element 138). Yamaura et al. particularly teach in figure 4 the use of the outer edge of the second valve disc being a chordal edge as shown in the area of element number 162.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the outer edge of the second valve disc of Furuya et al. to have included a chordal outer edge, in view of the teachings of Tanaka and Yamaura et al., in order to provide a pivot edge for the first valve disc to achieve a desired damping force as best determined by routine experimentation.

15. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamaura et al. in view of Tanaka. Yamaura et al. show in figures 1 and 2 a damper comprising: a pressure tube 10 forming a working chamber 12, 14; a piston 102 disposed within the working chamber, the piston dividing the working chamber into an upper working chamber 12 and a lower working chamber 14; a piston valve assembly 100 attached to the piston for regulating flow of damping fluid between the upper working chamber and

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the lower working chamber, the piston valve assembly comprising: a low speed valve movable between a closed position and an open position, the low speed valve including a first valve disc 138 having an outside edge and a central axis and a second valve disc 144 supporting via element 142 the first valve disc along an edge at a position between the outside edge and the central axis of the first valve disc (during large deflections of element 138); and a mid/high speed valve movable between a closed position and an open position, the mid/high speed valve comprising the first and second valve disc as disclosed in col. 7 lines 40 – col. 9 line 10, but does not specifically disclose that the outer edge of the second valve disc is chordal.

Tanaka teaches in figures 3a and 4a the use of a damper having a second valve disc 19 which is disposed adjacent to a first valve disc 17, the second valve disc having an outer edge 19a supporting the first valve disc at a position between the outside edge and a central axis of the first valve disc. Tanaka further teaches col. 5 lines 46-51 the damping force may be varied depending on the shape of valve disc 19 and the shape, angle, and depth of the outer edge 19a.

Yamaura et al. teach in figure 2 the use of a damper having a second valve disc 144 which is disposed adjacent to a first valve disc 138 via element 142, the second valve disc having an outer edge shown in the area of element number 158 supporting the first valve disc at a position between the outside edge and a central axis of the first valve disc (during large deflections of element 138). Yamaura et al. particularly teach in figure 4 the use of the outer edge of the second valve disc being a chordal edge as shown in the area of element number 162.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the outer edge of the second valve disc of Yamaura et al. to have included a chordal outer edge, in view of the teachings of Tanaka and Yamaura et al., in order to provide a pivot edge for the first valve disc to achieve a desired damping force as best determined by routine experimentation.

### ***Double Patenting***

16. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

17. Claims 1, 2, and 3 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, and 3 of copending Application No. 09/552125 in view of US Patent 5529154 to Tanaka and US Patent 4964493 to Yamaura et al.

Both applications claim the invention substantially as set forth above, but the instant invention is specific as to the chordal shape of a pivot edge created by the outer edge of the second valve disc.

Tanaka teaches in figures 3a and 4a the use of a damper having a second valve disc 19 which is disposed adjacent to a first valve disc 17, the second valve disc having an outer edge 19a supporting the first valve disc at a position between the outside edge and a central axis of the first valve disc. Tanaka further teaches col. 5 lines 46-51 the damping force may be varied depending on the shape of valve disc 19 and the shape, angle, and depth of the outer edge 19a.

Yamaura et al. teach in figure 2 the use of a damper having a second valve disc 144 which is disposed adjacent to a first valve disc 138 via element 142, the second valve disc having an outer edge shown in the area of element number 158 supporting the first valve disc at a position between the outside edge and a central axis of the first valve disc (during large deflections of element 138). Yamaura et al. particularly teach in figure 4 the use of the outer edge of the second valve disc being a chordal edge as shown in the area of element number 162.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the outer edge of the second valve disc of Application no. 09/552125 to have included a chordal outer edge, in view of the teachings of Tanaka and Yamaura et al., in order to provide a pivot edge for the first valve disc to achieve a desired damping force as best determined by routine experimentation.

This is a provisional obviousness-type double patenting rejection.

18. Claims 4 and 5 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 8 and 9 of

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copending Application No. 09/552125 in view of Furuya et al. '624, US Patent 5529154 to Tanaka and US Patent 4964493 to Yamaura et al. Both applications claim the invention substantially as set forth above, but the instant invention is specific as to the chordal shape of a pivot edge created by the outer edge of the second valve disc.

Tanaka teaches in figures 3a and 4a the use of a damper having a second valve disc 19 which is disposed adjacent to a first valve disc 17, the second valve disc having an outer edge 19a supporting the first valve disc at a position between the outside edge and a central axis of the first valve disc. Tanaka further teaches col. 5 lines 46-51 the damping force may be varied depending on the shape of valve disc 19 and the shape, angle, and depth of the outer edge 19a.

Yamaura et al. teach in figure 2 the use of a damper having a second valve disc 144 which is disposed adjacent to a first valve disc 138 via element 142, the second valve disc having an outer edge shown in the area of element number 158 supporting the first valve disc at a position between the outside edge and a central axis of the first valve disc (during large deflections of element 138). Yamaura et al. particularly teach in figure 4 the use of the outer edge of the second valve disc being a chordal edge as shown in the area of element number 162.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the outer edge of the second valve disc of Application no. 09/552125 to have included a chordal outer edge, in view of the teachings of Tanaka and Yamaura et al., in order to provide a pivot edge for the first

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valve disc to achieve a desired damping force as best determined by routine experimentation.

Also, Application no. 09/552125 claims the use of the mid/high valve including a third valve disc supporting the second valve disc. Furuya et al. teach in figures 1 and 3 the use of a damper having a mid/high speed valve including a third generally planar valve disc 4c supporting the second planar valve disc as disclosed in the abstract lines 1-9. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the mid/high speed valve of the instant application to have included a third valve disc, as taught by Furuya et al., in order to provide a means of supporting the second valve disc and to provide a means of assisting in second stage damping.

This is a provisional obviousness-type double patenting rejection.

19. Claim 6 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 14 of copending Application No. 09/552125 in view of Yamaura et al. in view of Tanaka. Both applications claim the invention substantially as set forth above, but the instant invention is specific as to the chordal shape of a pivot edge created by the outer edge of the second valve disc.

Tanaka teaches in figures 3a and 4a the use of a damper having a second valve disc 19 which is disposed adjacent to a first valve disc 17, the second valve disc having an outer edge 19a supporting the first valve disc at a position between the outside edge and a central axis of the first valve disc. Tanaka further teaches col. 5 lines 46-51 the

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damping force may be varied depending on the shape of valve disc 19 and the shape, angle, and depth of the outer edge 19a.

Yamaura et al. teach in figure 2 the use of a damper having a second valve disc 144 which is disposed adjacent to a first valve disc 138 via element 142, the second valve disc having an outer edge shown in the area of element number 158 supporting the first valve disc at a position between the outside edge and a central axis of the first valve disc (during large deflections of element 138). Yamaura et al. particularly teach in figure 4 the use of the outer edge of the second valve disc being a chordal edge as shown in the area of element number 162.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the outer edge of the second valve disc of Application no. 09/552125 to have included a chordal outer edge, in view of the teachings of Tanaka and Yamaura et al., in order to provide a pivot edge for the first valve disc to achieve a desired damping force as best determined by routine experimentation.

Also, Application no. 09/552125 claims the use of the mid/high valve including a third valve disc supporting the second valve disc. Yamarua et al. teach in figure 2 the use of a damper having a mid/high speed valve including a third generally planar valve disc 140 supporting the second planar valve disc. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the mid/high speed valve of the instant application to have included a third valve disc, as taught by



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Yamaura et al., in order to provide a means of supporting the second valve disc and to provide a means of assisting in second stage damping.

This is a provisional obviousness-type double patenting rejection.

### ***Conclusion***

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents: 4076276 to Wijnhoven et al., 6116388 to Bataille et al., 5325942 to Groves, and 4203507 to Tomita et al. teach similar damper devices with similar valve assemblies, JP-3168429 teaches the use of a chordal edge in figure 4.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 703-306-4618. The examiner can normally be reached on Monday-Friday (7:30 AM-4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

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*mmb 6/21/02*

mmb

June 21, 2002

*M. C. Graham*  
*6-26-02*  
MATTHEW C. GRAHAM  
PRIMARY EXAMINER  
GROUP 310